

No. PD-0012-19

THE STATE OF TEXAS

v.

DWAYNE ROBERT HEATH

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IN THE COURT OF
COURT OF CRIMINAL APPEALS
7/23/2019
DEANA WILLIAMSON, CLERK
CRIMINAL APPEALS
OF TEXAS

MOTION FOR LEAVE TO FILE
APPELLEE'S REPLY BRIEF

COMES NOW Dwayne Robert Heath, Appellee in the above-styled and numbered cause, and makes and files this Motion for Leave to file an Appellee's Reply Brief, and in support thereof shows the Court as follows:

I.

Appellee's filed the Appellee's Brief on May 10, 2019. The State filed its own brief on June 25, 2019.

II.

Appellee requests leave of Court to file a Reply Brief to present additional argument and authority relevant to appeal and to respond to the arguments made by the State in its brief.

Appellee does not oppose the Court granting the State (or the State Prosecuting Attorney) leave to file a brief in response to his Reply Brief.

III.

Rule of Appellate Procedure 70 does not expressly provide for the filing of a reply brief. But Rule 70.4 authorizes this Court to permit the filing of an “additional” brief “upon motion by a party.” TEX. R. APP. P. 70.4. Therefore, in accordance with Rule 70.4 Appellee requests leave of Court to file a Reply Brief.

Appellee is submitting his Reply Brief contemporaneously with this Motion.

WHEREFORE, PREMISES CONSIDERED, Appellee requests that the Court grant leave to file a reply brief and such other and further relief to which he may show himself justly entitled.

Respectfully submitted,

/s/ Alan Bennett
E. Alan Bennett
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Attorney for Appellee

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Certificate of Service

The undersigned hereby certifies that a true and correct copy of this document has been served electronically on July 22, 2019 to: (1) counsel for the State, Sterling Harmon, sterling.harmon@co.mclennan.tx.us; and (2) the State Prosecuting Attorney, information@SPA.texas.gov.

/s/ Alan Bennett
E. Alan Bennett